

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, et al.,)
Plaintiff(s),) No. C06-7339 SBA (BZ)
v.)
K-M INDUSTRIES HOLDING CO.,)
et al.,) ORDER FOLLOWING *IN CAMERA*
Defendant(s).) REVIEW OF DOCUMENTS

)

Following yesterday's hearing, the court re-read the disputed documents *in camera*. **IT IS ORDERED** as follows:

1. The K-M defendants shall produce to plaintiffs the documents which they voluntarily agreed to produce at yesterday's hearing.

2. The K-M defendants shall also produce to plaintiffs the following documents:

(1) The portion of document no. 164, part 3, that begins with the language "Th[sic] Trustee is requesting" to the end of section 3 and the portion of section 5 on the last page beginning with the words "The Trustee has asked whether the company" through the sentence that ends "distributed to the participants."

(2) That portion of document no. 203, beginning with the words "At the same director's meeting" and ending with the words "Trustee's request for payment of fees" in the next sentence.

3. The court finds that all the other disputed documents are protected by the attorney-client privilege or the work product doctrine and are not subject to the fiduciary exception as articulated in United States v. Mett, 178 F.3d 1058 (9th Cir. 1999) and Fischel v. Equitable Life Insurance, 191 F.R.D. 606 (N.D. Ca. 2000).

4. Defendants' Production of Documents in Response to the Court's Order shall be filed by the Clerk under seal.

DATED: March 6, 2008


Bernard Zimmerman
United States Magistrate Judge

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